



General Assembly

Substitute Bill No. 5555

February Session, 2012

* HB05555APP 043012 *

AN ACT CONCERNING DIVERSIONARY PROGRAMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-56i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) There is established a pretrial drug education and community
4 service program for persons charged with a violation of section
5 21a-267 or 21a-279 or persons charged with a third violation of section
6 21a-279a. The drug education and community service program shall
7 include a [ten-session drug intervention program, a fifteen-session
8 drug intervention] fifteen-week drug education program, [and] a
9 substance abuse treatment program of not less than fifteen sessions,
10 and the performance of community service.

11 (b) Upon application by any such person for participation in such
12 program and payment to the court of an application fee of one
13 hundred dollars and a nonrefundable evaluation fee of one hundred
14 fifty dollars, the court shall, but only as to the public, order the court
15 file sealed. [provided such person states under oath, in open court or
16 before any person designated by the clerk and duly authorized to
17 administer oaths, under penalties of perjury, that such person has
18 never had such program invoked in such person's behalf.] A person
19 shall be ineligible for participation in such pretrial drug education and
20 community service program if such person has twice previously

21 participated in (1) the [eight-session, ten-session or fifteen-session]
22 pretrial drug education program [, or substance abuse treatment
23 program] established under the provisions of this section [or] in effect
24 prior to October 1, 2012, (2) the [pretrial] community service labor
25 program established under section 53a-39c, as amended by this act, (3)
26 the drug education and community service program established under
27 this section, or (4) any of such programs, except that the court may
28 allow a person who has twice previously participated in such
29 programs to participate in the pretrial drug education and community
30 service program one additional time, for good cause shown. The
31 evaluation and application fee imposed [by] under this subsection
32 shall be credited to the pretrial account established under section 54-
33 56k.

34 (c) The court, after consideration of the recommendation of the
35 state's attorney, assistant state's attorney or deputy assistant state's
36 attorney in charge of the case, may, in its discretion, grant such
37 application. If the court grants such application, the court shall refer
38 such person (1) to the Court Support Services Division for
39 confirmation of the eligibility of the applicant, [and] (2) to the
40 Department of Mental Health and Addiction Services for evaluation
41 and determination of an appropriate drug education or substance
42 abuse treatment program for the first or second time such application
43 is granted, and (3) to a state licensed substance abuse treatment
44 program for evaluation and determination of an appropriate substance
45 abuse treatment program for the third time such application is
46 granted.

47 (d) (1) Upon confirmation of eligibility and receipt of the evaluation
48 and determination required [pursuant to] under subsection (c) of this
49 section, such person shall be referred by the Court Support Services
50 Division to the Department of Mental Health and Addiction Services
51 [by the Court Support Services Division] or to a state licensed
52 substance abuse treatment program for placement in the appropriate
53 drug education or substance abuse treatment program. [Participants
54 in]

55 (2) Persons who have been granted entry into the drug education
56 and community service program for the first time shall [receive
57 appropriate drug intervention services or substance abuse treatment
58 program services, as recommended by the evaluation conducted
59 pursuant to subsection (c) of this section, and ordered by the court]
60 participate in a fifteen-week drug education program. Persons who
61 have been granted entry into the drug education and community
62 service program for the second time shall participate in either a fifteen-
63 week drug education program or a substance abuse treatment
64 program of not less than fifteen sessions, as ordered by the court based
65 on the evaluation and determination required under subsection (c) of
66 this section. Persons who have been granted entry into the drug
67 education and community service program for a third time shall be
68 referred to a state licensed substance abuse program for evaluation
69 and participation in a course of treatment as ordered by the court
70 based on the evaluation and determination required under subsection
71 (c) of this section.

72 (3) Persons who have been granted entry into the drug education
73 and community service program shall also participate in a community
74 service program administered by the Court Support Services Division
75 pursuant to section 53a-39c, as amended by this act. Persons who have
76 been granted entry into the drug education and community service
77 program for the first time shall participate in the community service
78 program for a period of five days. Persons who have been granted
79 entry into the drug education and community service program for the
80 second time shall participate in the community service program for a
81 period of fifteen days. Persons who have been granted entry into the
82 drug education and community service program for a third or
83 additional time shall participate in the community service program for
84 a period of thirty days.

85 (4) Placement in the drug education and community service
86 program pursuant to this section shall not exceed one year. Persons
87 receiving substance abuse treatment program services in accordance
88 with the provisions of this section shall only receive such services at

89 state licensed substance abuse treatment program facilities that are in
90 compliance with all state standards governing the operation of such
91 facilities. Any person who enters the program shall agree: [(1)] (A) To
92 the tolling of the statute of limitations with respect to such crime; [(2)]
93 (B) to a waiver of such person's right to a speedy trial; [(3)] (C) to
94 complete participation in the [ten-session drug intervention program,
95 fifteen-session drug intervention program or substance abuse
96 treatment program, as recommended by the evaluation conducted
97 pursuant to subsection (c) of this section, and] drug education and
98 community service program, as ordered by the court; [(4)] (D) to
99 commence participation in the drug education and community service
100 program not later than ninety days after the date of entry of the court
101 order unless granted a delayed entry into the program by the court;
102 and [(5)] (E) upon completion of participation in the [pretrial] drug
103 education and community service program, to accept placement in a
104 treatment program upon the recommendation of a provider under
105 contract with the Department of Mental Health and Addiction Services
106 or placement in a treatment program that has standards substantially
107 similar to, or higher than, a program of a provider under contract with
108 the Department of Mental Health and Addiction Services if the Court
109 Support Services Division deems it appropriate. [The Court Support
110 Services Division shall require as a condition of participation in the
111 drug education program that any person participating in the ten-
112 session drug intervention program or the substance abuse treatment
113 program also participate in the community service labor program,
114 established pursuant to section 53a-39c, for not less than five days; and
115 that any person participating in the fifteen-session drug intervention
116 program also participate in said community service labor program, for
117 not less than ten days.]

118 (e) If the Court Support Services Division informs the court that
119 such person is ineligible for the program and the court makes a
120 determination of ineligibility or if the program provider certifies to the
121 court that such person did not successfully complete the assigned
122 program and such person did not request, or the court denied,

123 reinstatement in the program under subsection (i) of this section, the
124 court shall order the court file to be unsealed, enter a plea of not guilty
125 for such person and immediately place the case on the trial list.

126 (f) If such person satisfactorily completes the assigned program,
127 such person may apply for dismissal of the charges against such
128 person and the court, on reviewing the record of such person's
129 participation in such program submitted by the Court Support
130 Services Division and on finding such satisfactory completion, shall
131 dismiss the charges. If such person does not apply for dismissal of the
132 charges against such person after satisfactorily completing the
133 assigned program, the court, upon receipt of the record of such
134 person's participation in such program submitted by the Court
135 Support Services Division, may on its own motion make a finding of
136 such satisfactory completion and dismiss the charges. Upon motion of
137 such person and a showing of good cause, the court may extend the
138 placement period for a reasonable period [for] of time to allow such
139 person to complete the assigned program. A record of participation in
140 such program shall be retained by the Court Support Services Division
141 for a period of ten years from the date the court grants the application
142 for participation in the program.

143 (g) At the time the court grants the application for participation in
144 the pretrial drug education and community service program, [such]
145 any person ordered to participate in the drug education program shall
146 pay to the court a nonrefundable program fee of [three hundred fifty
147 dollars if such person is ordered to participate in the ten-session drug
148 intervention program or five hundred dollars if such person is ordered
149 to participate in the fifteen-session drug intervention program] six
150 hundred dollars. If the court orders participation in a substance abuse
151 treatment program, such person shall pay to the court a nonrefundable
152 program fee of one hundred dollars and shall be responsible for the
153 costs associated with such program. No person may be excluded from
154 any such program for inability to pay such fee or cost, provided (1)
155 such person files with the court an affidavit of indigency or inability to
156 pay, (2) such indigency or inability to pay is confirmed by the Court

157 Support Services Division, and (3) the court enters a finding thereof.
158 The court may waive all or any portion of such fee depending on such
159 person's ability to pay. If the court finds that a person is indigent or
160 unable to pay for a substance abuse treatment program, the costs of
161 such program shall be paid from the pretrial account established under
162 section 54-56k. If the court denies the application, such person shall not
163 be required to pay the program fee. If the court grants the application,
164 and such person is later determined to be ineligible for participation in
165 such pretrial drug education and community service program or fails
166 to complete the assigned program, the program fee shall not be
167 refunded. [All program fees] Eighty-five per cent of each program fee
168 paid shall be credited to the pretrial account established under section
169 54-56k and fifteen per cent of each program fee paid shall be credited
170 to the alternative incarceration program account.

171 (h) If a person returns to court with certification from a program
172 provider that such person did not successfully complete the assigned
173 program or is no longer amenable to treatment, the provider, to the
174 extent practicable, shall include a recommendation to the court as to
175 whether placement in a [ten-session drug intervention program, a
176 fifteen-session drug intervention] drug education program or
177 placement in a substance abuse treatment program would best serve
178 such person's needs. The provider shall also indicate whether the
179 current program referral was an initial referral or a reinstatement to
180 the program.

181 (i) When a person subsequently requests reinstatement into a drug
182 [intervention] education program or a substance abuse treatment
183 program and the Court Support Services Division verifies that such
184 person is eligible for reinstatement into such program and thereafter
185 the court favorably acts on such request, [such] any person reinstated
186 into the drug education program shall pay a nonrefundable program
187 fee of [one hundred seventy-five dollars if ordered to complete a ten-
188 session drug intervention program or] two hundred fifty dollars, [if
189 ordered to complete a fifteen-session drug intervention program, as
190 the case may be] and any person reinstated into a substance abuse

191 treatment program shall be responsible for the costs, if any, associated
192 with being reinstated into the treatment program. Unless good cause is
193 shown, such [fees] program fee shall not be waived. [If the court grants
194 a person's request to be reinstated into a substance abuse treatment
195 program, such person shall be responsible for the costs, if any,
196 associated with being reinstated into the treatment program.] All
197 program fees collected in connection with a reinstatement to a drug
198 [intervention] education program shall be credited to the pretrial
199 account established under section 54-56k. No person shall be permitted
200 more than two program reinstatements pursuant to this subsection.

201 (j) The Department of Mental Health and Addiction Services shall
202 develop standards and oversee appropriate drug education programs
203 to meet the requirements of this section and may contract with service
204 providers to provide such programs. The department shall adopt
205 regulations, in accordance with chapter 54, to establish standards for
206 such drug education programs.

207 (k) Any person whose employment or residence or schooling makes
208 it unreasonable to attend a drug [intervention] education program or
209 substance abuse treatment program in this state may attend a program
210 in another state that has standards similar to, or higher than, those of
211 this state, subject to the approval of the court and payment of the
212 program fee or costs as provided in this section.

213 Sec. 2. Section 53a-39c of the general statutes is repealed and the
214 following is substituted in lieu thereof (*Effective October 1, 2012*):

215 (a) There is established, within available appropriations, a
216 community service labor program for persons [charged with]
217 convicted of a first violation of section 21a-267 or 21a-279 who have not
218 previously been convicted of a violation of section [21a-267,] 21a-277 [,
219 or 21a-278, [or 21a-279.] Upon application by any such person for
220 participation in such program the court may grant such application
221 and, [(1) if such person has not previously been placed in the
222 community service labor program, the court may either suspend

223 prosecution and place such person in such program or, upon a plea of
224 guilty without trial where a term of imprisonment is part of a stated
225 plea agreement, suspend any sentence of imprisonment and make
226 participation in such program a condition of probation or conditional
227 discharge in accordance with section 53a-30; or (2) if such person has
228 previously been placed in such program, the court may,] upon a plea
229 of guilty without trial where a term of imprisonment is part of a stated
230 plea agreement, suspend any sentence of imprisonment and make
231 participation in such program a condition of probation or conditional
232 discharge in accordance with [said] section 53a-30. No person may be
233 placed in such program who has [twice] previously been placed in
234 such program.

235 (b) Any person who enters such program shall pay to the court a
236 participation fee of two hundred five dollars, except that no person
237 may be excluded from such program for inability to pay such fee,
238 provided (1) such person files with the court an affidavit of indigency
239 or inability to pay, (2) such indigency is confirmed by the Court
240 Support Services Division, and (3) the court enters a finding thereof.
241 All program fees collected under this subsection shall be deposited
242 into the alternative incarceration program account. The period of
243 participation in the community service labor program shall be thirty
244 days.

245 [(c) Any person for whom prosecution is suspended and who is
246 placed in the community service labor program pursuant to subsection
247 (a) of this section shall agree to the tolling of the statute of limitations
248 with respect to such crime and to a waiver of such person's right to a
249 speedy trial. A pretrial community service labor program established
250 under this section for persons for whom prosecution is suspended
251 shall include a drug education component. If such person satisfactorily
252 completes the program of community service labor to which such
253 person was assigned, such person may apply for dismissal of the
254 charges against such person and the court, on reviewing the record of
255 such person's participation in such program and on finding such
256 satisfactory completion, shall dismiss the charges. If the program

257 provider certifies to the court that such person did not successfully
258 complete the program of community service labor to which such
259 person was assigned or is no longer amenable to participation in such
260 program, the court shall enter a plea of not guilty for such person and
261 immediately place the case on the trial list.

262 (d) The period of participation in a community service labor
263 program shall be a minimum of fourteen days for a first violation and
264 thirty days for a second violation involving a plea of guilty and
265 conviction.]

266 Sec. 3. Subsection (c) of section 54-56e of the 2012 supplement to the
267 general statutes is repealed and the following is substituted in lieu
268 thereof (*Effective October 1, 2012*):

269 (c) This section shall not be applicable: (1) To any person charged
270 with a class A felony, a class B felony, except a violation of section 53a-
271 122 that does not involve the use, attempted use or threatened use of
272 physical force against another person, or a violation of section 14-227a,
273 subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-
274 60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision
275 (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f,
276 (2) to any person charged with a crime or motor vehicle violation who,
277 as a result of the commission of such crime or motor vehicle violation,
278 causes the death of another person, (3) to any person accused of a
279 family violence crime as defined in section 46b-38a who (A) is eligible
280 for the pretrial family violence education program established under
281 section 46b-38c, or (B) has previously had the pretrial family violence
282 education program invoked in such person's behalf, (4) to any person
283 charged with a violation of section 21a-267 or 21a-279 who (A) is
284 eligible for the pretrial drug education and community service
285 program established under section 54-56i, as amended by this act, or
286 (B) has previously had the pretrial drug education program or the
287 pretrial drug education and community service program invoked in
288 such person's behalf, (5) unless good cause is shown, to (A) any person
289 charged with a class C felony or (B) any person charged with

290 committing a violation of subdivision (1) of subsection (a) of section
291 53a-71 while such person was under twenty-one years of age, or (6) to
292 any person charged with a violation of section 9-359 or 9-359a.

293 Sec. 4. Section 54-56m of the general statutes is repealed and the
294 following is substituted in lieu thereof (*Effective October 1, 2012*):

295 (a) There shall be established, in [the geographical area of the
296 Superior Court for the towns of Berlin, New Britain, Newington,
297 Rocky Hill and Wethersfield, the geographical area of the Superior
298 Court for the towns of Bethlehem, Middlebury, Naugatuck, Prospect,
299 Southbury, Watertown, Wolcott, Woodbury and Waterbury, and such
300 other geographical areas of the Superior Court as the Chief Court
301 Administrator may designate] each geographical area of the Superior
302 Court, programs of mediation wherein the court may refer a criminal
303 prosecution to mediation for resolution. For the purposes of this
304 section, "mediation" means the process where two or more persons to a
305 dispute agree to meet with an impartial third party to work toward a
306 resolution of the dispute which is satisfactory to all parties in
307 accordance with principles of mediation commonly used in labor
308 management disputes.

309 (b) If mediation is successful, the prosecuting authority, upon
310 recommendation of the family relations counselor or mediation officer,
311 shall enter a nolle prosequi and the prosecution shall be terminated
312 and the defendant released from custody.

313 (c) If mediation is unsuccessful or the defendant fails to comply
314 with the terms of any mediation agreement, the family relations
315 counselor or mediation officer shall notify the prosecuting authority
316 and prosecution of the defendant may be initiated.

317 (d) There shall be established, in [the two geographical areas of the
318 Superior Court enumerated in subsection (a) of this section and in such
319 other geographical areas of the Superior Court as the Chief Court
320 Administrator may designate] each geographical area of the Superior
321 Court, units to provide mediation services in cases referred by the

322 court to mediation. In addition, mediation services in cases referred by
323 the court to mediation may also be provided by private agencies under
324 contract with the Judicial Department.

325 Sec. 5. Section 54-56h of the general statutes is repealed and the
326 following is substituted in lieu thereof (*Effective October 1, 2012*):

327 (a) The court may, in the disposition of any criminal or motor
328 vehicle case, including a dismissal or the imposition of a sentence,
329 consider the fact that the defendant has made a monetary contribution
330 to the Criminal Injuries Compensation Fund established under section
331 54-215 or a monetary contribution or contribution of community
332 service work hours to a private nonprofit charity or other nonprofit
333 organization.

334 (b) In entering a nolle prosequi, the state's attorney, assistant state's
335 attorney or deputy assistant state's attorney in charge of the case may
336 consider the fact that the defendant has made a monetary contribution
337 to the Criminal Injuries Compensation Fund or a monetary
338 contribution or contribution of community service work hours to a
339 private nonprofit charity or other nonprofit organization.

340 (c) A monetary contribution made by a defendant to the Criminal
341 Injuries Compensation Fund as provided in this section may be paid to
342 either the clerk of the court or the Office of Victim Services.

343 Sec. 6. Section 54-66a of the general statutes is repealed and the
344 following is substituted in lieu thereof (*Effective October 1, 2012*):

345 Any bail bond posted in any criminal proceeding in this state shall
346 be automatically terminated and released whenever the defendant: (1)
347 Is granted accelerated rehabilitation pursuant to section 54-56e, as
348 amended by this act; (2) is granted admission to the pretrial alcohol
349 education program pursuant to section 54-56g; (3) is granted
350 admission to the pretrial family violence education program pursuant
351 to section 46b-38c; (4) is granted admission to the community service
352 labor program pursuant to section 53a-39c, as amended by this act; (5)

353 is granted admission to the pretrial drug education and community
354 service program pursuant to section 54-56i, as amended by this act; (6)
355 has the complaint or information filed against such defendant
356 dismissed; (7) is acquitted; (8) is sentenced by the court; (9) is granted
357 admission to the pretrial school violence prevention program pursuant
358 to section 54-56j; or (10) is charged with a violation of section 29-33 and
359 prosecution has been suspended pursuant to subsection (h) of section
360 29-33.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2012</i>	54-56i
Sec. 2	<i>October 1, 2012</i>	53a-39c
Sec. 3	<i>October 1, 2012</i>	54-56e(c)
Sec. 4	<i>October 1, 2012</i>	54-56m
Sec. 5	<i>October 1, 2012</i>	54-56h
Sec. 6	<i>October 1, 2012</i>	54-66a

JUD *Joint Favorable Subst.*

APP *Joint Favorable*